

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>2/17/2021</u>

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ANTONIO ROSARIO,	:	
	:	
Petitioner,	:	
	:	17-CV-6602 (VEC)
-against-	:	09-CR-415
	:	
UNITED STATES OF AMERICA,	:	<u>ORDER</u>
	:	
Respondent.	:	
-----	X	
VALERIE CAPRONI, United States District Judge:		

WHEREAS on September 24, 2019, after vacating Petitioner's Section 924(c) conviction with the Government's consent and pursuant to *United States v. Davis*, the Court resentenced Petitioner;

WHEREAS Petitioner filed a timely Notice of Appeal on October 2, 2019;

WHEREAS at the time of Petitioner's appeal, he had a remaining claim of ineffective assistance of counsel;

WHEREAS on October 4, 2019, the Court issued an order holding Petitioner's motion in abeyance pending the Second Circuit's decision on Petitioner's appeal of his sentence; and


WHEREAS on February 1, 2021, the Second Circuit issued a Summary Order affirming this Court's September 24, 2019 amended judgment, *see* No. 19-3163, Dkt. 98-1;

IT IS HEREBY ORDERED that the stay in this case is lifted and the Court may now consider Petitioner's remaining claim of ineffective assistance of counsel.

IT IS FURTHER ORDERED that, notwithstanding that briefing on Petitioner's ineffective assistance claim appears to have been completed on January 5, 2018, not later than **March 17, 2021**, both Petitioner and the Government may each submit a letter not to exceed five double-spaced pages updating any previous briefing on this issue, to the extent necessary.

SO ORDERED.

Date: February 17, 2021
New York, NY



VALERIE CAPRONI
United States District Judge